

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**JOSE ISRAEL MARTINEZ**

## Claimant

VS.

**MONFORT, INC.**

Respondent

AND

# OLD REPUBLIC INSURANCE

## Insurance Carrier

DOCKET NO. 170,737

## ORDER

**ON** the 1st day of March, 1994, the application of the claimant for review by the Workers Compensation Appeals Board of a Settlement Award entered by Special Administrative Law Judge Linda L. Eckelman, dated December 15, 1993, came on before the Appeals Board for oral argument by telephone conference.

## APPEARANCES

Claimant appeared by his attorney, Thomas R. Fields of Kansas City, Kansas. Respondent and insurance carrier appeared by their attorney, Terry J. Malone of Dodge City, Kansas. There were no other appearances.

## RECORD

The record before the Appeals Board is the same as that considered by the Special Administrative Law Judge, consisting of the documents filed of record with the Division of Workers Compensation together with the transcript of Compromise Settlement Hearing dated December 15, 1993, and the Exhibits attached thereto.

## ISSUES

The issue raised by the claimant for review by the Appeals Board is:

- (1) Whether the Special Administrative Law Judge exceeded her jurisdiction by her denial of claimant's request for the interpreter's fees to be assessed against the director or against the respondent and insurance carrier.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

A Compromise Settlement Agreement was presented by counsel for the parties for approval to Special Administrative Law Judge Linda L. Eckelman on December 15, 1993. It was represented to the Special Administrative Law Judge that all issues were in a posture to be resolved by agreement. However, at the conclusion of the hearing counsel for claimant asked that the fee of the interpreter in the amount of \$25.00 be ordered paid by the director or that it be assessed as costs against the respondent and insurance carrier pursuant to K.S.A. 75-4352(a). The Special Administrative Law Judge inquired as to whether the interpreter's fee was made a part of the settlement agreement with the respondent and insurance carrier, to which claimant's counsel replied in the negative. Whereupon, the Special Administrative Law Judge stated that she was going to disallow the claim. Claimant alleges that this was error and that the Special Administrative Law Judge exceeded her jurisdiction by denying this request.

K.S.A. 44-551(d) speaks to the question of special administrative law judge jurisdiction and specifically provides:

"In case of emergency the director may appoint special local administrative law judges and assign to them the examination and hearing of any designated case or cases. Such special local administrative law judges shall be attorneys and admitted to practice law in the state of Kansas and shall, as to all cases assigned to them, exercise the same powers as provided by this section for the regular administrative law judges."

The record does not reflect that the director assigned the instant case to the Special Administrative Law Judge for a determination. Rather, this case came before the Special Administrative Law Judge purported to be in a posture of settlement. As such, it was heard by the Special Administrative Law Judge under her limited appointment authority to hear settlements. Absent specific assignment of a case, the appointment of a Special Administrative Law Judge to hear settlements does not include the power to decide controverted issues. Such authority lies solely within the jurisdiction of the Administrative Law Judge. Accordingly, this matter is to be remanded to the Administrative Law Judge for further proceedings.

### **ORDER**

**WHEREFORE**, it is the finding, decision, and order of this Appeals Board that the Order of Special Administrative Law Judge Linda L. Eckelman, dated December 15, 1993, should be, and hereby is remanded to the Administrative Law Judge for further proceedings.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March, 1994.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

cc: Tom Fields, 3120 Strong Avenue, Kansas City, KS 66106  
Terry J. Malone, 1st Natl. Bank, 2nd Fl., 617 Second Ave., Dodge City, KS 67801  
Linda L. Eckelman, Special Administrative Law Judge  
Thomas F. Richardson, Administrative Law Judge, 11 W. 5th, Liberal, KS 67901  
George Gomez, Director